

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

CODY J. DURLIN,

Plaintiff,

v.

SHAYNE M. ROBINSON, et al.

Defendants.

No. 2:21-cv-1495-TLN-KJN PS

ORDER TO SHOW CAUSE

(ECF No. 3)

On October 12, 2021, the court granted plaintiff's application to proceed in forma pauperis and dismissed plaintiff's complaint with leave to amend. (ECF No. 3.) Plaintiff was given 30 days to file a first amended complaint and cautioned that failure to timely comply with the order could result in a recommendation that this action be dismissed. (*Id.*) That deadline has now passed, and the court's records show that plaintiff failed to file either an amended complaint or a notice of voluntary dismissal.

The court could recommend that this action should be dismissed at this juncture due to this failure. Nevertheless, in light of plaintiff's pro se status and the court's desire to resolve the action on the merits, the court first attempts lesser sanctions by issuing this order to show cause.


Accordingly, IT IS ORDERED that:

1. Within 14 days of the date of this order, plaintiff shall show cause in writing why this action should not be dismissed with prejudice pursuant to Federal Rule of

Civil Procedure 41(b) based on plaintiff's failure to comply with the court's order and failure to prosecute this case;

2. Within 14 days of the date of this order, plaintiff shall file a first amended complaint, or a notice of voluntary dismissal, in compliance with the court's October 12, 2021 order;
3. Failure to timely comply with the terms of this order will result in a recommendation that this action be dismissed with prejudice pursuant to Federal Rule of Civil Procedure 41(b); and
4. The Clerk of Court is instructed to serve a copy of the court's October 12, 2021 order (ECF No. 3) on plaintiff, along with this order.

Dated: November 18, 2021


KENDALL J. NEWMAN
UNITED STATES MAGISTRATE JUDGE

durl.1495